

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
WESTERN DIVISION**

**UNITED STATES OF AMERICA**

**VERSUS**

**CRIMINAL ACTION NO. 4:06CR65**

**KAY L. TERRY**

**ORDER**

This cause is before the Court on the defendant's Motion in Limine [25]. The Court, having reviewed the motion, the response, the authorities cited and being otherwise fully advised in the premises, finds as follows, to-wit:

Defendant requests entry of an order forbidding the government from offering evidence of her September 22, 1994 conviction for embezzlement under F.R.E. 609. The government concedes that the conviction, which was set aside by the Mississippi Supreme Court, is not admissible under Rule 609. However, the government urges that evidence of the embezzlement might be admissible under either of Rules 404(b) and/or 608(b) in the event the defendant chooses to testify.

Accordingly, the Court finds that the defendant's motion is well-taken and should be granted only insofar as concerns the conviction. The Court will reserve ruling as to the admissibility of the underlying facts of defendant's alleged past embezzlement in the event she testifies at trial.

IT IS, THEREFORE, ORDERED AND ADJUDGED that the defendant's Motion in Limine [25] is well-taken and should be, and hereby is, GRANTED.

SO ORDERED, this the 27<sup>th</sup> day of June, 2006.

/s/ W. Allen Pepper, Jr.  
W. ALLEN PEPPER, JR.  
UNITED STATES DISTRICT JUDGE